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12 Attorneys for Plaintiff
13 SUCCESSFACTORS, INC.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17
18 SUCCESSFACTORS, INC. a Delaware
corporation,

19 Plaintiff,

20 v.

21 SOFTSCAPE, INC., a Delaware
22 corporation; and DOES 1-10,

23 Defendants.

Case No. C-08-1376 CW (BZ)

**REPLY DECLARATION OF HENRY Z.
CARBAJAL III IN SUPPORT OF PLAINTIFF
SUCCESSFACTORS, INC.'S MOTION TO
COMPEL PRODUCTION OF DOCUMENTS,
FURTHER INTERROGATORY ANSWERS AND
PROPER PRIVILEGE LOGS**

Date: September 3, 2008
Time: 10:00 a.m.
Judge: Hon. Bernard Zimmerman
Place: Courtroom G, 15th Floor

Date of Filing: July 30, 2008
Trial Date: May 11, 2009

1 I, Henry Z. Carbajal III, declare as follows:

2 1. I am an attorney with the law firm of Fenwick & West LLP, counsel to Plaintiff
3 SuccessFactors, Inc. ("SuccessFactors") and I make this declaration in support of Plaintiff
4 SuccessFactors, Inc.'s Reply Memorandum in Support of its Motion to Compel Production of
5 Documents, Further Interrogatory Answers and Proper Privilege Logs. I make the following
6 statements based upon my personal knowledge, and, if called upon to testify, would testify
7 competently to them.

8 2. Discovery proceedings in the present case have been contentious. Although
9 counsel for SuccessFactors repeatedly sought Softscape's informal cooperation to produce
10 documents in response to SuccessFactors' document requests, first issued in March 2008,
11 discussions in this regard with Softscape often deteriorated into a cycle of Softscape's counsel
12 agreeing to produce responsive documents by a date certain only to fail to produce documents by
13 the agreed date. These missed deadlines include Softscape's prior commitments to produce
14 responsive documents on May 15 and May 16, June 17, and July 3, 2008.

15 3. Softscape's failure to timely produce documents was raised during the July 3, 2008
16 discovery conference. In its July 7, 2008 Third Discovery Order, stemming from proceedings at
17 the discovery conference, the Court stated that "[a]ll document production must be completed by
18 August 1, 2008, except production of documents designated by the plaintiff as tier 1 for the six
19 specified individuals, which must be completed by July 15, 2008."

20 4. Beginning on July 15, 2008 and continuing through August 15, 2008, Softscape
21 issued very small document productions, with most of the documents not produced in their native
22 format. On July 28, 2008, SuccessFactors moved the Court to extend its August 1, 2008
23 production deadline. (Dkt. No. 171.) On July 30, 2008, the Court denied Softscape's motion to
24 extend the August 1 production deadline. (Dkt. No. 173.) Despite the Court's Order, Softscape
25 nevertheless persisted in continuing to produce documents through August 15, 2008. Softscape
26 never moved the Court to extend its July 15 production deadline for its "tier 1" custodians, even
27 though it appears Softscape did not comply with this deadline either.

28 ///

1 5. After August 1, SuccessFactors' counsel requested that Softscape indicate when its
2 Court-ordered productions would be complete, since SuccessFactors continued to receive
3 production CDs from Softscape after August 1. Softscape did not confirm its July 15 and August
4 1 productions were complete until August 18, 2008.

5 6. At the July 10, 2008 meet and confer session I attended, SuccessFactors raised
6 Softscape's response to Document Request No. 2 regarding database information on potential or
7 intended recipients of the Presentation, sales and marketing efforts directed at Presentation
8 recipients, internal communications regarding Presentation recipients, and communications about
9 the Presentation. Softscape's counsel refused to produce much of the information requested by
10 SuccessFactors. Softscape did commit to producing a cross reference list of "hits" between the
11 John Anonymous e-mail list and its primary customer database. As of the date of this declaration,
12 to my knowledge SuccessFactors has still not received this list. The John Anonymous e-mail list
13 has apparent e-mail addresses for private individuals, individuals that are representatives of
14 various business entities and departmental e-mail addresses of various business entities. My
15 colleague, Laurence Pulgram, asked whether the cross-reference list would include identification
16 of both individuals and companies appearing in both the e-mail list and Softscape's customer
17 database. Softscape's counsel's answer was not clear as to whether it would fully search for
18 commonly listed individuals. It now appears from Softscape's brief opposing the instant motion
19 that Softscape has committed to searching for both common individuals and business entities.

20 7. I understand on page 6, lines 11-22 of Softscape's opposition, Softscape has
21 agreed to provide various categories of documents to SuccessFactors pursuant to Document
22 Requests Nos. 2, 13, 22-25 and 32. I was in attendance at both the July 10 and July 17, 2008
23 meet and confer sessions between the parties, and do not recall any of the alleged agreements
24 being posed to SuccessFactors in the form now listed by Softscape, with the exception of the
25 production of the aforementioned cross reference list of "hits." Specifically, on page 6, lines 14-
26 18 of Softscape's opposition, Softscape agrees to produce the following:

- 1 • Communications between January 1, 2008 and the present between Softscape and the
seventeen prospective customers that Plaintiff alleges Softscape interfered with, relating
2 to: (a) the Presentation; (b) wins, losses, reasons for wins or losses with respect to any of
the seventeen prospects; and/or (c) Plaintiff
- 3 • Communications between January 1, 2008 and the present between Softscape and any of
4 the individual or corporate Gmail recipients, or Softscape and any other recipient of the
Presentation or Softscape's e-mail transmitting the press release confirming the truth of
5 the Presentation, relating to: (a) the Presentation; (b) wins, losses and reasons for such
wins or losses with respect to the recipients; and/or (c) Plaintiff.

6
7 Softscape's commitment to produce information relating to "wins, losses, reasons for [such] wins
8 or losses" was not previously the part of any meet and confer session between the parties. On
9 page 6, lines 20-22, of the opposition brief, Softscape agrees to produce the following:

- 10 • Documents and communications that relate to customer campaigns that (a) focused on
11 Plaintiffs' alleged lost or poached customers; and (b) marketing campaigns that were
commenced by Softscape after January 1, 2008.

12 This agreement cited by Softscape also was not previously part of any meet and confer session
13 between the parties.

14 8. On May 16, 2008, my firm issued on behalf of SuccessFactors a subpoena to the
15 Puerto Rican company New Millenium Shoe ("NMS") and forwarded the subpoena to counsel for
16 Softscape requesting that they accept service of the subpoena. Counsel for Softscape did not
17 receive authorization to accept the subpoena on behalf of NMS. The subpoena had to be
18 personally served on Dave Watkins, an officer of NMS, on May 23, 2008. NMS lodged
19 objections to all of SuccessFactors' document requests on or about May 27, 2008. Since May 27,
20 2008, NMS has not produced any documents and has not provided any further response indicating
21 whether it would comply with the outstanding subpoena. Due to NMS' lack of compliance,
22 SuccessFactors was forced to move to enforce the subpoena in the United States District Court for
23 the District of Puerto Rico on August 11, 2008. Just days before its opposition brief was due,
24 counsel for New Millenium Shoe petitioned the district court of Puerto Rico for an extension of
25 time until September 4, 2008 to oppose the discovery motion. Attached as Exhibit 8 is a true and
26 correct copy of the request submitted by NMS' counsel dated August 20, 2008 (Dkt. No. 3.)

27 9. My firm issued another subpoena on behalf of SuccessFactors to Dave Watkins'
28 sister-in-law, Ely Valls, who purportedly was an employee of NMS. On August 5, 2008,

1 Ms. Valls's attorney produced approximately 14 documents in response to the subpoena originally
2 served on or about April 28, 2008.

3 10. The parties agreed during the July 10, 2008 meet and confer session that Softscape
4 would log alleged privileged and work product communications with in-house counsel regarding
5 its investigation concerning John Anonymous through March 27, 2008. Softscape also agreed to
6 log communications between outside counsel and a purported member of the press, to the extent
7 Softscape alleged any of the communications were work product. In return, SuccessFactors agreed
8 to log privileged and work product communications regarding its pre-litigation investigation
9 through March 27, 2008. SuccessFactors is not seeking to recant the parties' agreement and
10 intends to uphold its end of the parties' agreement. With respect to SuccessFactors' request that
11 Softscape log certain alleged privileged or work product press release related documents,
12 SuccessFactors raised a colorable issue of privilege waiver for such documents that pertain to
13 Softscape's investigation regarding the Presentation or its distribution. This issue cannot readily
14 be raised before the Court unless the documents at issue are identified on a log.

15 11. I understand that Softscape's opposition brief and the declaration of Jeffrey
16 Ratnoff recount an alleged incident of "*ex parte*" contact with a Softscape employee, Larry
17 Kurzner, and attempted service of a subpoena at his home. I am informed that SuccessFactors'
18 counsel contacted Larry Kurzner by telephone, as publicly available information listed
19 Mr. Kurzner as the employee of another company. I am further informed that the first question
20 posed to Mr. Kurzner was whether he was a Softscape employee. When Mr. Kurzner confirmed
21 this, the conversation was immediately terminated. Thereafter, SuccessFactors sought to obtain
22 relevant documents from Mr. Kurzner from both before and after his employment at Softscape. To
23 compel production of documents in Mr. Kurzner's personal possession, SuccessFactors issued a
24 subpoena. It gave notice via e-mail and facsimile to Softscape of the subpoena on the day efforts
25 began to serve the subpoena, and requested that Softscape accept service on Mr. Kurzner's behalf,
26 with the expectation that SuccessFactors would discontinue efforts to personally serve the
27 subpoena if Softscape's counsel would accept service. Softscape's counsel declined to answer
28 whether he would accept service. Thus, SuccessFactors continued efforts to serve the subpoena on

1 Mr. Kurzner personally. Once Softscape finally confirmed it would accept service of the subpoena
2 two days after the subpoena's issuance, SuccessFactors ceased efforts to serve Mr. Kurzner
3 personally. Thus, SuccessFactors acted properly with respect to Mr. Kurzner and commits to
4 acting properly and ethically should the Court compel Softscape to produce unredacted employee
5 phone records.

6 12. In a letter to me dated July 15, 2008, and at the July 17, 2008 meet and confer
7 session I attended, Softscape's counsel demanded to know exactly how SuccessFactors planned to
8 use unredacted phone record information. By letter dated July 16, 2008, (*see* Dkt. No. 187, Ex. J),
9 and during the July 17, 2008 meet and confer session, myself and Laurence Pulgram, respectively,
10 assured Softscape the information would not be used for any illegal, unethical or harassing
11 purpose. However, we did not go into great detail about SuccessFactors' plans to utilize the
12 information, as Softscape's request for full disclosure of these plans extended to attorneys' thought
13 processes and mental impressions, and hence implicated work product. This is what I meant by
14 the phrase "litigation strategy" in my July 16, 2008 letter to Softscape's counsel. SuccessFactors
15 again confirms that it will not use the unredacted phone record information for any improper,
16 illegal, unethical or harassing purpose.

17 13. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the
18 deposition transcript of David Watkins, dated May 29, 2008.

19 14. Attached hereto as **Exhibit 2** is a true and correct copy of Softscape production
20 documents comprising phone records of Dave Watkins numbered SSHC0002.

21 15. Attached hereto as **Exhibit 3** is a true and correct copy of Softscape production
22 documents comprising phone records numbered SSHC00240-246.

23 16. Attached hereto as **Exhibit 4** is a true and correct copy of Softscape production
24 documents comprising phone records of Michael Brandt, Dave Watkins and Lillian Watkins
25 numbered SSHC00908-916.

26 17. Attached hereto as **Exhibit 5** is a true and correct copy of a Softscape production
27 document comprising an e-mail string between Softscape employees numbered SSP002804.

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1 18. Attached hereto as **Exhibit 6** is a true and correct copy of a document produced to
2 SuccessFactors from non-party Larry Kurzner comprising an e-mail string numbered LKH001.

3 19. Attached hereto as **Exhibit 7** is a true and correct copy of a Softscape production
4 document comprising an e-mail string numbered SSP00865.

5 20. Attached hereto as **Exhibit 8** is a true and correct copy of New Millenium Shoe's
6 Notice of Appearance and Motion for an Extension of Time, dated August 20, 2008, filed in the
7 miscellaneous action to enforce SuccessFactors' subpoena in the United States District Court for
8 the District of Puerto Rico, Civil No. 08-00155 (FAB).

9 I declare under penalty of perjury under the laws of the State of California and the United
10 States of America that the foregoing is true and correct. Executed this 20th day of August 2008 at
11 Mountain View, California.

12 /s/ Henry Z. Carbajal III
13 Henry Z. Carbajal III
14

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FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

EXHIBIT 1 TO
DECLARATION OF HENRY Z. CARBAJAL III

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

-----x

SUCCESSFACTORS, INC., a Delaware
corporation,

Plaintiff,

Case No.

vs.

CV 08 1376 CW (BZ)

SOFTSCAPE, INC., a Delaware
corporation; DOES 1-10, inclusive,
Defendants.

-----x

VIDEOTAPED DEPOSITION OF DAVID V. WATKINS, a
witness called by and on behalf of the Plaintiff,
taken pursuant to Rule 30 of the Federal Rules of
Civil Procedure, before James A. Scally, RMR, CRR, a
Notary Public in and for the Commonwealth of
Massachusetts, at the offices of Bromberg & Sunstein
LLP, 125 Summer Street, Boston, Massachusetts, on
Thursday, May 29, 2008, commencing at 9:16 a.m.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 Q. All right. What -- is Exhibit 5's attached
15 PowerPoint the most recent pre-litigation version that
16 exists on the SRC site?
17 [REDACTED]
18 [REDACTED]
19 of my knowledge, that's what I can represent. Whether this
20 was on the physical SRC site, the sales resource center, I
21 don't know.

22 Q. Let's leave the SRC out of it. Is the PowerPoint
23 attached as Exhibit 5 the most recent pre-litigation
24 version of The Naked Truth document that exists in
25 PowerPoint form on any Softscape media?

1 A. I don't know specifically.

2 MR. PULGRAM: Counsel, I'd like you
3 to get the witness straight on that
4 information, given what's been represented
5 to us. We'd also like to get immediate
6 production of the post-litigation version
7 and any other versions that exist on the
8 site.

9 MR. DAVIDS: I'll certainly --

10 MR. PULGRAM: Let's look at -- I'm
11 sorry. Go ahead.

12 MR. DAVIDS: Go ahead. Go.

13 BY MR. PULGRAM:

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 you know what that is?

18 A. That's the properties for a file.

19 Q. And what does it describe the properties for this
20 pdf of The Naked Truth as being?

21 A. Well, if you represent that this particular
22 properties document that you created represents this file,
23 then what it says is the title, "SuccessFactors - The Naked
24 Truth (Compatibility Mode)," author D. Watkins.

25 Q. And does it show --

1 him.

2 MR. PULGRAM: -- you and he can
3 review it. You may. Subject to the
4 provision that this will otherwise be
5 attorneys' eyes only.

6 MR. DAVIDS: Agreed.

7 BY MR. PULGRAM:

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 Q. When did this happen?

22 A. Are you talking about the specific time period of
23 2008?

24 Q. Yes.

25 A. I believe it happened in the January/February/

1 March time frame.

2 Q. Can you be more specific, please?

3 A. No, I can't.

4 MR. PULGRAM: I don't have time to
5 address all of that right now, so I want to
6 shift for a moment to New Millennium Shoe.
7 We will come back to the customer campaign
8 either tomorrow or when we have the rest of
9 the documents about it.

10 Q. What is New Millenium Shoe?

11 A. It's a shoe store.

12 Q. Store?

13 A. Correct.

14 Q. One store?

15 A. It was three retail stores. Two and a half retail
16 stores.

17 Q. Where is it located?

18 A. It's located -- it was located in Puerto Rico.

19 Q. It's now one store?

20 A. It's actually now -- we've closed the retail
21 operations.

22 Q. Is there any operation remaining?

23 A. There's still -- there's still a legal entity.

24 Q. There's a legal entity without operations?

25 A. Correct. Without the retail stores.

1 COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

2
3 I, JAMES A. SCALLY, RMR, CRR, a Certified
4 Shorthand Reporter and Notary Public duly commissioned and
5 qualified in and for the Commonwealth of Massachusetts, do
6 hereby certify that there came before me on the 29th day of
7 May, 2008, at 9:16 a.m., the person hereinbefore named,
8 DAVID V. WATKINS, who provided satisfactory evidence of
9 identification as prescribed by Executive Order 455 (03-13)
10 issued by the Governor of the Commonwealth of
11 Massachusetts, was by me duly sworn to testify to the truth
12 and nothing but the truth of his knowledge concerning the
13 matters in controversy in this cause; that he was thereupon
14 examined upon his oath, and his examination reduced to
15 typewriting under my direction; and that this is a true
16 record of the testimony given by the witness to the best of
17 my ability.

18 I further certify that I am neither
19 attorney or counsel for, nor related to or employed by, any
20 of the parties to the action in which this deposition is
21 taken, and further, that I am not a relative or employee of
22 any attorney or counsel employed by the parties hereto or
23 financially interested in the action.

24 My Commission Expires: April 23, 2015


25

James A. Scally, RMR, CRR
CSR/Notary Public

EXHIBIT 2 TO
DECLARATION OF HENRY Z. CARBAJAL III

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16 OAKLAND DIVISION
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18 SUCCESSFACTORS, INC., a Delaware
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19 Plaintiff,

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21 SOFTSCAPE, INC., a Delaware
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22 Defendants.
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24

Case No. CV 08-1376 CW

MANUAL FILING NOTICE

Date: September 3, 2008
Time: 10:00 a.m.
Courtroom: G, 15th Floor
Judge: Hon. Bernard Zimmerman

Date of Filing: July 30, 2008
Trial Date: May 11, 2009

25 **RE: CONFIDENTIAL EXHIBITS 2-7 TO THE DECLARATION OF HENRY Z.**
26 **CARBAJAL IN SUPPORT OF REPLY IN SUPPORT OF MOTION TO COMPEL**
27 **PRODUCTION OF DOCUMENTS, FURTHER INTERROGATORY ANSWERS AND**
28 **PROPER PRIVILEGE LOGS**

This filing is in paper or physical form only, and is being maintained in the case file in the Clerk's office.

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 X Item Under Seal

_____ Conformance with the Judicial Conference Privacy Policy (General Order 53).

_____ Other (description): _____

Dated: August 20, 2008

FENWICK & WEST LLP

By: /s/ Patrick Premo
Patrick Premo

Attorneys for Plaintiff
SUCCESSFACTORS, INC.

FENWICK & WEST LLP
ATTORNEYS AT LAW
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EXHIBIT 3 TO
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Dated: August 20, 2008

FENWICK & WEST LLP

By: /s/ Patrick Premo
Patrick Premo

Attorneys for Plaintiff
SUCCESSFACTORS, INC.

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EXHIBIT 4 TO
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11 media

12 X Item Under Seal

13 _____ Conformance with the Judicial Conference Privacy Policy (General Order 53).

14 _____ Other (description): _____

15 Dated: August 20, 2008

FENWICK & WEST LLP

17 By: /s/ Patrick Premo
18 Patrick Premo

19 Attorneys for Plaintiff
20 SUCCESSFACTORS, INC.

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO

EXHIBIT 5 TO
DECLARATION OF HENRY Z. CARBAJAL III

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12 Attorneys for Plaintiff
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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION
17

18 SUCCESSFACTORS, INC., a Delaware
corporation,

19 Plaintiff,

20 v.

21 SOFTSCAPE, INC., a Delaware
corporation; and DOES 1-10, inclusive,

22 Defendants.
23
24

Case No. CV 08-1376 CW

MANUAL FILING NOTICE

Date: September 3, 2008
Time: 10:00 a.m.
Courtroom: G, 15th Floor
Judge: Hon. Bernard Zimmerman

Date of Filing: July 30, 2008
Trial Date: May 11, 2009

25 **RE: CONFIDENTIAL EXHIBITS 2-7 TO THE DECLARATION OF HENRY Z.**
26 **CARBAJAL IN SUPPORT OF REPLY IN SUPPORT OF MOTION TO COMPEL**
27 **PRODUCTION OF DOCUMENTS, FURTHER INTERROGATORY ANSWERS AND**
28 **PROPER PRIVILEGE LOGS**

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11 media

12 X Item Under Seal

13 _____ Conformance with the Judicial Conference Privacy Policy (General Order 53).

14 _____ Other (description): _____

15 Dated: August 20, 2008

FENWICK & WEST LLP

17 By: /s/ Patrick Premo
18 Patrick Premo

19 Attorneys for Plaintiff
20 SUCCESSFACTORS, INC.

FENWICK & WEST LLP
ATTORNEYS AT LAW
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EXHIBIT 6 TO
DECLARATION OF HENRY Z. CARBAJAL III

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15 NORTHERN DISTRICT OF CALIFORNIA
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14 _____ Other (description): _____

15 Dated: August 20, 2008

FENWICK & WEST LLP

17 By: /s/ Patrick Premo
18 Patrick Premo

19 Attorneys for Plaintiff
20 SUCCESSFACTORS, INC.

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO

EXHIBIT 7 TO
DECLARATION OF HENRY Z. CARBAJAL III

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12 Attorneys for Plaintiff
 13 SUCCESSFACTORS, INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 OAKLAND DIVISION
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18 SUCCESSFACTORS, INC., a Delaware
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14 _____ Other (description): _____

15 Dated: August 20, 2008

FENWICK & WEST LLP

17 By: /s/ Patrick Premo
18 Patrick Premo

19 Attorneys for Plaintiff
20 SUCCESSFACTORS, INC.

EXHIBIT 8 TO
DECLARATION OF HENRY Z. CARBAJAL III

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

SUCCESSFACTORS, INC.,

Plaintiffs,

v.

SOFTSCAPE, INC., and DOES 1-10,
inclusive,

Defendants.

CIVIL NO. 08-00155 (FAB)

NOTICE OF APPEARANCE AND MOTION FOR AN EXTENSION OF TIME

TO THE HONORABLE COURT:

COMES NOW third-party New Millenium Shoe (“NMS”) and through the undersigned attorney very respectfully states and prays:

1. Third-party NMS has retained undersigned counsel to represent it in the captioned matter. It is respectfully requested that notice be taken of the undersigned’s appearance and that all documents, papers and pleadings be served at the address below:

Luis F. del Valle-Emmanuelli
P.O. Box 79897
Carolina, Puerto Rico 00984-9897
Tel 787.791.1818
Fax 787.791.4260
dvelawoffices@onelinkpr.net

2. Undersigned counsel will jointly represent NMS in the captioned matter with:

Luis F. Juarbe-Jiménez
Báez & Juarbe
618 Barbosa Avenue
Barbosa Building, Suite 103
Hato Rey, Puerto Rico 00918
Tel 787.758.8029
Fax 787.754.0109
lfjuarbe@baez&juarbe.com

3. NMS is the target of a motion filed by SuccessFactors, Inc., on August 11, 2008 (docket entry 1), seeking to compel NMS to produce a myriad of documents. The opposition

response is due by August 27, 2008.

4. NMS respectfully requests an extension of time of ten (10) days so the undersigned may have sufficient time to fully review the matter and be in a position to draft a response brief on its behalf. NMS respectfully submits that the extension of time requested will not cause prejudice or unduly delay these proceedings, and will allow the third-party's counsel to become acquainted with the issues.

WHEREFORE, third-party New Millenium Shoe very respectfully requests that notice be taken of the appearance of both their counsel and further requests that an extension of ten (10) days, or until September 4, 2008, be granted to file an opposition to SuccessFactors, Inc.'s motion to compel (docket entry 1).

I HEREBY CERTIFY that on August 20, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to **Roberto A. Cámara-Fuertes**, Fiddler, González & Rodríguez, P.O. Box 363507, San Juan, Puerto Rico 00936-3507 and all CM/ECF participants in the case.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 20th day of August, 2008.

DEL VALLE-EMMANUELLI LAW OFFICES
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Carolina, Puerto Rico 00984-9897
Tel. 787.791.1818
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